



Occupied Palestinian Territories (OPTs) and their unique context

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Question

What contextual factors influence programme success in the OPTs (with a focus on anticorruption, transparency and accountability) and what sources of information e.g. “best buys” exist that could contribute to evaluation of the effectiveness of such interventions?

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1. Summary

This rapid review explores the contextual factors that influence donor programme success in the OPTs. The success of anti-corruption, transparency and accountability programmes in the Occupied Palestinian Territories (OPTs) have been severely limited by the lack of checks on governing authorities both within the OPTs and from donors. Donor projects aimed at capacity building in civil society and advocacy for anti-corruption laws have done little to change the entrenched lack of accountability, integrity and transparency in governing structures.

Since the Oslo accords in 1993, donors have provided money to support the development of a Palestinian state including improvements in its governance. Several contextual factors have hindered this work, including the stalled process towards statehood, continued Israeli incursions and interference in the OPTs, the split between the Fatah-led Palestinian Authority (PA) in the West Bank and the Hamas-led Gaza Strip since 2006, and the lack of elections since 2006. Despite funding for anti-corruption, transparency and accountability initiatives, there has been little improvement and authoritarianism has worsened in the territories. Significant portions of donor funds are lost to corruption. The PA has signed several anti-corruption laws, but scholars agree that the reforms are piecemeal and ineffective. Nepotism and clientelism are identified as the leading forms of corruption and governments are not accountable.

There is little information on Palestinian civil society organisations (CSOs). One prominent organisation, AMAN (Coalition for Accountability and Integrity), has partnered with the international non-governmental organisation Transparency International to evaluate integrity as well as advocate. However, engagement between Western donors and Palestinian non-governmental organisations (NGOs) has often been limited, particular in Gaza since Hamas' election victory in 2006. Donors have sought to build the capacity of civil society, but such measures have been limited by state threats to freedom of speech and a lack of real accountability in state institutions.

The literature surveyed includes academic and grey literature. Much of the academic literature addresses the role of aid in relation to the Palestinian governing structures, the Israeli occupation and the policies of major donor countries. International donor reports cover a variety of programmes and include evaluative statements which point to the positives of individual programmes (surveyed in sections 3 and 4). However, broader evaluations and the academic literature state that there has been no significant improvement in accountability, transparency and anti-corruption because of the overarching political situation and the unwillingness of donors to challenge this. The literature is gender blind.

2. Contextual factors in the OPTs

Government of the OPTs

The Palestinian Liberation Organisation (PLO) has used patronage to secure its power since before the 1993 Oslo accords.¹ According to Dana (2015, p. 2), 'patron-clientelism is

¹ The Oslo accords marked the beginning of a peace process between the Palestinian Liberation Organisation (PLO) and the state of Israel. They established the Palestinian Authority (PA) as the governing body in the West Bank and Gaza Strip. They aimed to settle unresolved questions within five years. Following this, international donors sought to build the PA's governing capacity.

rooted in the social values of kinship and familial ties, which are in turn shaped by factional politics. These social and political ties provide the ruling elite with a strategic tool to control constituents and expand the network of supporters by redistributing public resources in order to buy political loyalties, which in turn helps the ruling elite to preserve the status quo and maintain its dominance of political and economic assets.' Patrons will excuse or ignore the corruption of those who are loyal to them.

This system of patron-clientelism has been continued by the Oslo accords. The Israeli government's 'intention in signing the Oslo accords was to create a client state that they could continue to control through the rents distributed to the Palestinian Authority (PA) via international donors, coupled with a strategy of territorial fragmentation and containment' (Dana, 2015, p. 3).

The current institutional set-up does little to check abuses of the PA. The lack of a functioning Palestinian Legislative Council since 2007 and the lack of independence in the judiciary mean there is little oversight of either PA policies, or protection against corrupt practices (AMAN, 2019b, p. 14). The literature agrees that the 'PA is not accountable to the Palestine people in the form of electoral censure due to the absence of regular elections' and '[i]neffective or absent political institutions that could provide checks and balances, and the lack of a culture of transparency and accountability, compound the problem' (Kundsén & Tartir, 2017, p. 19).

The World Bank's control-of-corruption indicator puts the OPTs as above average for lower middle-income countries. Bribery rates in schools (4-6%), hospitals (4-6%) and courts (15%) are not seen by Palestinians as the main problem and are not exceptional by international standards. However, nepotism and clientelism are much more prevalent than bribery in both the West Bank and the Gaza Strip (Kukutschka, 2018b, p. 3). The misappropriation of funds by political elites is a significant problem and hard to track because of the use of foreign bank accounts to launder money (Kukutschka, 2018b, p. 4).

Corruption is also rooted in business practices. Scholars point to 'the large-scale public and private monopolistic practices in strategic sectors of the Palestinian economy' and argue that 'crony capitalism' is prevalent within the PA (Dana, 2019). Public sector contacts and decisions remain opaque. Some public sector appointments are given by "special contracts" and the government has granted concessions for public services without disclosing details of the process. The budget is not overseen because of the absence of a functioning Palestinian Legislative Council and the 2013 accounts will not be published until 2019 (AMAN, 2019b, p. 7). In Gaza, despite gaining a reputation for efficiency before 2007, since coming to power, Hamas has put supporters in government jobs and has failed to act transparently regarding the money it made from smuggling tunnels to Egypt (Dana, 2015, p. 6).

In recent years, the PA has taken a number of anti-corruption measures (Dayyeh, 2018, pp. 6–8):

- Passed an Anti-Corruption Law in 2010 (amended in 2017);
- Established an Anti-Corruption Commission (ACC) in 2010;
- Launched a National Anti-Corruption Strategy (2015-18);
- Introduced a computerised placement system for civil service jobs in 2016;
- Passed the Public Procurement Law in 2016;
- Passed the Money Laundering Law in 2007 (amended in 2015 and 2016);
- Joined Interpol in 2017;

- Approved the National Policies' Agenda 2017-2022 'Putting Citizens First', which incorporated a number of Sustainable Development Goals (SDGs) and targets, including a number of targets from Goal 16, such as enhancing accountability and transparency in public institutions, and the efficiency and effectiveness of the administration of public funds, and the ways to achieve justice.

However, observers also point to the failure to pass legislation such as 'a witness and whistle-blower protection law, the criminalizing of all corruption crimes in accordance with the United Nations Convention Against Corruption (UNCAC), and regulation concerning matters of conflict of interest and the revolving door, when officials transfer between the Public Sector and the Private Sector' (AMAN, 2019a, p. 9; Dayyeh, 2018, p. 6). Legislation and political will to tackle corruption and improve transparency are lacking. The government has not passed the Access to Information Law or the Archive Law (AMAN, 2019b, p. 7).

The government has also done little to ensure transparency and protect the rights of civil society actors. The government frequently fails to publish decisions and, '[a]rbitrary arrests have increased against political activists, journalists, and bloggers on the grounds of alleged violations of publishing rules' (Dayyeh, 2018, p. 8)

There have recently been some improvements in public employment practices and within the public sector, including:

- A Strategic Plan for Civil Service to rationalise the wage bill.
- A plan to involve civil society in appointing the lower ranks of the civil service.
- Publishing the results of employment exams.
- Approval of a code of conduct for the security services.
- Awareness raising activities for this code of conduct in the civil service.
- The Electricity Sector Regulatory Council was established with a set structure, an annual budget and a written stipulation confirming its financial and administrative independence.
- The effective work of the State Audit and Administrative Control Bureau (SAACB) in the West Bank. It referred 23 reports of corruption to the Anti-Corruption Commission in 2018. It received 48 complaints from the Gaza Strip.

(AMAN, 2019b, pp. 5–6).

However, at the higher level of government, a report written by AMAN, a civil society anti-corruption organisation, points to 'the constant decline in the openness and transparency of the government and its institutions and the decline in the level of integrity and transparency in the management of public funds' (AMAN, 2019b, p. 6). The report says that in 2018, 62 officials were appointed and promotions made through presidential decree and without competition, and that 'the majority' of appointments and promotions 'were carried out on bases of nepotism, loyalties and power-sharing' (AMAN, 2019b, p. 7).

Taken together, the anti-corruption apparatus in the OPTs is only partially effective. For instance, 153 cases were looked at by the Anti-Corruption Court between 2010 and 2017, but most 'related to junior employees with simple corruption crimes' rather than higher-level state corruption (Dayyeh, 2018, p. 6). The judiciary is not considered to be fully independent (Dayyeh, 2018, p. 6). The Anti-Corruption Commission is seen to be ineffective. It heard no cases regarding Wasta (favours) or favouritism in 2018. It heard 29 cases, of 482 reports, in 2018

(AMAN, 2019b, p. 9). Dayyeh (2018, p. 7) therefore characterises the current measures as 'scattered anti-corruption efforts and individual and incomplete initiatives.'

Israeli occupation

Israeli appropriation of donor funds, tax revenues and natural resources constitutes a significant drain on public finances. Estimates of the effect of occupation on the Palestinian economy range from a loss of one third to three quarters (Kundsen & Tartir, 2017, p. 20). It is argued that 'aid correlates with processes of "de-development" in the West Bank' (Kundsen & Tartir, 2017, p. 20). The confiscation of funds and salaries for political prisoners in Israeli prisons and sanctions on employees in Gaza makes the running of institutions difficult (AMAN, 2019b, p. 14). Israel also 'offers a safe haven for the corrupt and provides them with protection' (Dana, 2015, p. 5).

According to a recent Norwegian review, 'recent study estimates that 72 per cent of international aid ends up in the Israeli economy, through practices that divert the flows (monopoly on goods and services) and subvert (customs union, taxes and levies) the aid' (Kundsen & Tartir, 2017, p. 19). Money is also lost by the 'willful Israeli destruction of infrastructure built with aid money, estimated at EUR 65 million during 2001–15' (Kundsen & Tartir, 2017, p. 20).

Donor policies

Scholars point to the negative effect that international aid has on the integrity of Palestinian institutions. A Transparency International evaluation argues that 'the PA's dependence on foreign aid makes it vulnerable to donor pressure to reform' (Karanàsou, Karoud, & Kassis, 2016, p. 19). However, while donors have increasingly emphasised good governance in recent decades, there is little evidence that they have challenged the clientelism or security-focus of the PA. Aid previously aimed to align 'with the Palestinian Reform and Development Plan (PRDP, 2008–10), and the Palestinian National Development Plan (PNDP, 2011–13)'. The high point of this process was in 2008–10, but since then the lack of progress in peace talks combined with the lack of elections in the OPTs has seen progress stall (Kundsen & Tartir, 2017, p. 19). Donors prioritise security and stability over good governance (Turner, 2019, p. 285). Donors have avoided addressing the corruption of the PA, the lack of progress in peace talks, or the effects of the Israeli occupation. Given that 'it is difficult to disentangle the effects of corruption from those caused by other challenges such as the political, economic and social situation in the territories' (Kukutschka, 2018a), this is seen to be a significant limitation.

According to Dana (2019, pp. 6–7), 'donor politics tend to preserve the rentier nature of the PA while disregarding its authoritarian character, widespread corruption and repressive security practices in exchange for enforcing stability.' Much of the PA's budget is funded by donors, and supports a large public sector appointed by patronage (Farsakh, 2016, p. 55). The PA meets donors' technical requirements, while continuing to distribute money to its supporters without real transparency or accountability (Ibrahim & Beaudet, 2012, p. 482). A growing percentage of the PA's budget is spent on security, but there is evidence that the proportion spent on security is downplayed (Tartir & Wildeman, 2016, pp. 23–24). In the period 2008–12, €2 billion of the aid sent to the West Bank and Gaza was lost to corruption in the PA (Kundsen & Tartir, 2017, p. 27). A report suggests that given the lack of effective laws and independent judiciary, efforts to increase reporting of corruption are futile and 'an institutional and political overhaul, rather than limited and fragmented political and legal reforms, is necessary' (Fatafta, 2018, p. 6).

Donors funding the OPTs have done little to adjust their approach or listen to voices from civil society. According to Wildeman (2018, p. 124) 'since 1993 donors have imposed a radically transformative and one-size-fits-all model upon the Palestinians, remodelling OPT society from the top-down, with basically no accountability to the Palestinians.' They have not attempted to address problems brought about by the Israeli occupation, and have not challenged the PA's corruption (Kundsen & Tartir, 2017, p. 20). Aid to Palestinian NGOs has been selective: 'international aid to such organizations has created a wedge between NGOs that have the savvy to address a Western audience, and those that have remained more involved in grassroots work but lacked funding either because they are not Anglophone or secular enough' (Farsakh, 2016, pp. 57–58). Similarly, according to Springer (2015, p. 8), '[g]overnance reform interventions, like so many others, continue to emphasise short-term 'wins', relying on existing institutions and power centres to do so. The complexities of fostering channels of accountability beyond spaces for 'citizen voice', for instance by supporting political mobilisation, are frequently beyond the scope of programmes funded by ODA institutions.'

The split between the PA and the Hamas government in Gaza from 2006 has led to worsening accountability. Since 2006, humanitarian and development actors have practised a policy of no-contact with the Hamas government in Gaza.² This has crippled the government and has meant that services are delivered by aid organisations instead. Since PA employees have been forbidden from working under Hamas, Hamas has filled vacancies with members and affiliates, rather than qualified candidates. Judges are also political appointees, which has 'led the Palestinian Center for Human Rights to reject the legitimacy of Gaza's judiciary and stop defending Gazans in civil courts' (Qarmout & Beland, 2012, p. 38).

In Gaza, 'providing aid while observing a no-contact policy vis-à-vis the Hamas government, contravenes key OECD principles for aid effectiveness' (Kundsen & Tartir, 2017, p. 19). Hamas has attempted to force aid agencies to use its own beneficiary list, while the PA has attempted to control the flow of aid to Gaza (De Groof, 2009, p. 6). The UNDP's mandate aims to foster democratic governance by working with local institutions and civil society organisations (CSOs). This is not possible in Gaza because most CSOs are classified as supporting Hamas. '[fo]r UNDP, working under the no-contact policy—excluding the Hamas government and its affiliated CSOs—while trying to promote democratic governance places it in contradiction to its own mandate' (Qarmout & Beland, 2012, p. 41).

Many services are provided by aid agencies rather than state institutions, particularly in Gaza. According to a report aiming to map donor aid to the OPTs from 2012-2014, since 1993, 'Palestinians have also regularly been excluded from the opportunity to make decisions on how they are governed or to determine their own socio-economic policies, in spite of local ownership being widely acknowledged as the key ingredient to effective aid, and as agreed to by major OECD donors in the Paris Declaration, Accra Agenda for Action, and Busan Partnership for Effective Development Co-operation' (Tartir & Wildeman, 2016, p. 12). Levels of transparency in aid vary between donors (Tartir & Wildeman, 2016, p. 106).

² In 2006, Hamas won elections in the OPTs. Hamas is classified as a terrorist organisation by Israel, the US and the EU and rejects tenets of the Oslo peace process. Hamas took control of the Gaza Strip and Fatah retained control of the PA, with control of the West Bank. The Fatah-led PA refuses to co-operate with Hamas and pays its civil servants to abstain from work. Aid organisations practise a policy of no-contact with Hamas authorities.

3. Palestinian civil society

A number of Palestinian and donor-led initiatives have sought to increase the capacity of CSOs. However, the efforts of CSOs against state corruption are limited because information is not transparent, civil society actors are not consulted about government decisions, and there is insufficient protection for whistle-blowers (Dayyeh, 2018, p. 8).

AMAN (Coalition for Accountability and Integrity)

The 2018 corruption and integrity report by the Palestinian NGO, AMAN (Coalition for Accountability and Integrity) describes the positive effect of CSOs in increasing accountability in health, education, welfare and social protection.

The report lists the following initiatives:

- An accountability session with the Deputy Minister of Economy on 'Consumer Protection Procedures and Measures on Alah-EI-Din Commercial Gate' on 10 March 2018.
- An accountability session with the Foundation for the Care of Families of Martyrs and the Wounded on transparency of management and implementation of the Haj pilgrimage grants on 5 June 2018.
- An accountability session entitled 'the Palestinian Police strategy 2017-2022', hosted by the Civil Forum to Enhance Good Governance in the Security Sector and attended by the police, on 9 May 2018.
- An accountability session on the land settlement project, attended by the chairman of the Land and Water Settlements Commission along with Judge Mousa Shakarneh on 16 May 2018.
- An accountability session on social security law, with the chairman of the board for social security, on 13 March 2018.
- A national day of accountability sessions was held on 8 October 2018 across the West Bank and Gaza Strip, including 23 sessions on education, health, unemployment and other issues.

(AMAN, 2019b, pp. 21–22).

On 26 November 2018, several CSOs jointly released the Jerusalem Declaration for Combating Corruption. It recommended:

- The consolidation of efforts in combating corruption and waging war on corruption and the corrupt, in addition to the national unity and holding presidential and legislative elections, constitutes one of the main focal points to the end the occupation and to achieving our independent statehood. Furthermore, protecting public funds and Palestinian resources from looting by the corrupt is to maintain our political struggle. This can only be achieved through strict laws, a firm political will, determination to expose and condemn corruption and a vigilant and alert public that follows up and holds the guilty accountable
- The need for collaboration between sectors and parties, as well as the professional management of funds.
- A participatory approach in developing anti-corruption plans and strategies.

(AMAN, 2019b, p. 23).

4. Donor projects

USAID

USAID projects between 2008 and 2016 include:

- **'CPP (Civic Participation Program'**, provides strategic opportunities to civil society organizations to adopt and utilize internal democratic management practices to ensure transparent decision-making and communication practices that will increase accountability of internal governance, quality of performance, and credibility of external outreach' (Farsakh, 2016, pp. 57–58).
- **EPIM (Enhancing Palestinian Independent Media Project)**, which 'Aims to develop the institutional and professional capacity of independent media and to promote informed dialogue between the PA and the Palestinian public / Strengthen a professional media for a democratic Palestinian state' (Farsakh, 2016, pp. 57–58).
- **LDR (Local Democratic Reform–TAWASOL)**, which 'Seeks to enhance the capacity of the Ministry of Local Government (MoLG); strengthen the capacity of partner Local Government Units (LGUs); and expand civic engagement and participation in partner municipalities' (Farsakh, 2016, pp. 57–58).
- **PACE (Palestinian Authority Capacity Enhancement Program)**, which 'Provides technical and advisory support to targeted PA institutions to upgrade capabilities, improve management skills, improve citizen services, and enhance the performance of the public sector institutions and skills of civil servants' (Farsakh, 2016, pp. 57–58).
- **PJEP (Palestinian Justice Enhancement Program)**, which 'Aims to strengthen public confidence and respect for justice sector institutions and the rule of law in the West Bank and Gaza. The program directly addresses the priorities and objectives outlined in the PA's Justice Sector Strategy and its Plan for the Thirteenth Government.' (Farsakh, 2016, pp. 57–58).
- The **West Bank and Gaza Local Democratic Reform Program** supported the creation of 13 Youth Shadow Local Councils (YSLC). The aim was to encourage youth participation and give them experience in good governance (Winbourne & Spector, 2013, p. 180).
- The **West Bank and Gaza Local Government and Infrastructure Program** created systems to enhance financial management of local government budgets, and track revenue and expenditures (Winbourne & Spector, 2013, p. 180).
- The **Health Sector Reform and Development Project (Palestinian Flagship)** in West Bank and Gaza (Winbourne & Spector, 2013, p. 54).

According to a recent article, these have not had the effect of reducing authoritarianism (Farsakh, 2016, pp. 57–58).

Danida

The Danish aid agency, Danida, focused on statebuilding (41% of expenditure) in the period 2009-2013. It provided local government assistance, work to improve human rights, and to improve the capacity of family courts. Its projects were mainly technical and did not address the

politics of corruption. An evaluation notes that 'Denmark could have done more in terms of the policy dialogue with the PA, such as addressing issues of accountability and transparency also in relation to corruption and nepotism' (Danida, 2015, p. 14). The evaluation concludes that it attempted to improve service delivery, but has done little to foster local democracy, transparency or accountability of public administration or social accountability (Danida, 2015, p. 74). It recommends that in future, state-building and human rights should be combined and that it should seek to gain more leverage and bring up issues of accountability with the PA (Danida, 2015, p. 16). Reviews for the 2016-2020 programme have not yet been completed.

Transparency International

Transparency International (TI) undertook research and advocacy work in partnership with the Palestinian anti-corruption organisation, AMAN (Coalition for Accountability and Integrity). An evaluation of their work emphasises the positive effects of their advocacy to the government, and capacity building in civil society (Karanàsou et al., 2016).

Part of the work was a National Integrity System (NIS) for 2013, which was disseminated in 2015 (450 Arabic and 150 English copies, and 238 downloads in both languages) (AMAN, 2014). The evaluation suggests that this work (Karanàsou et al., 2016, pp. 13–16):

- improved understanding of corruption risks through digital media and youth groups;
- generated significant media coverage;
- led to new partnerships with local organisations and politicians;
- improved the lobbying and advocacy skills of local staff and organisations; and
- Increased the prestige and networking capabilities of local actors through the creation of an Arab Advisory Working Group for Transparency.

It also contributed to policy changes (Karanàsou et al., 2016, pp. 13–16):

- The PA cabinet has developed further regulations regarding the conduct of civil servants;
- The PA cabinet has also formed a committee to monitor the institutional arrangements for the law on public procurement, in order to start implementing it in 2016;
- The proposed PA budget was issued according to how the law stipulates that it should be issued; and
- The Anti-Corruption Commission has used the NIS study to draft amendments to the anti-corruption law.

TI also notes several positive changes in civil society (Karanàsou et al., 2016, pp. 13–16):

- WAFA, the official Palestinian news agency and the Al-Hayat Al-Jadida newspaper have both established investigative reporting units following training provided to journalists by AMAN;
- The media department of the Al-Aqsa University in Gaza created a curriculum on investigative journalism with AMAN's help;
- Two universities, one in the West Bank and one in Gaza, developed curricula for training of their students in investigative reporting following AMAN training of journalists and university students;

- Over forty investigative articles were published in the press following AMAN training in investigative journalism.

Aside from the specific outputs mentioned above, AMAN 'acquired greater prestige' through publishing the NIS and partnering with an international organisation (Karanàsou et al., 2016, p. 17). Palestinians also benefited from the networking and skills sharing platforms which TI was able to facilitate, and the help in fostering expertise in investigative journalism (Karanàsou et al., 2016, p. 17).

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